

**Before the
Federal Communications Commission
Washington DC 20554**

In the Matter of)	
)	
Modernizing the E-rate Program)	WC Docket No. 13-184
for Schools and Libraries; Focused)	
Comment on E-rate Modernization)	

**Comments from the Wisconsin Department of Public Instruction
In Response to the FCC's
E-rate Modernization Public Notice of March 6, 2014
(Filed April 7, 2014)**

Introduction

The Wisconsin Department of Public Instruction (WDPI, department) is the state's education and library agency with statutory oversight for 424 public school districts and 386 public libraries. We have provided E-rate support to our state's schools and libraries since the program's inception. At the national level, our staff are active in the State E-rate Coordinators' Alliance (SECA) and the American Library Association's E-rate Task Force.

Our department has commented on many E-rate rulemaking notices starting with our first comments submitted in 1996.¹ We also filed comments² on the July 2014 Notice of Proposed Rule Making (NPRM) and appreciate the opportunity to comment on this March 6, 2014, Notice too. In these comments we address only those issues and questions we think of priority interest to Wisconsin's school and library communities. However, we think our comments will resonate with schools and libraries in many other states as well.

Before we provide specific comments related to the Notice we must again state our position that the E-rate program must be adequately funded. Each year there is often \$2 requested for every \$1 available in

¹ See our comments filed April 6, 1996, at http://pld.dpi.wi.gov/pld_fcc_let.

² See our comments filed September 15, 2013, at <http://apps.fcc.gov/ecfs/document/view?id=7520943611>.
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the program. And this 2:1 demand understates the real program funding deficit because most applicants in the lower discount bands never apply for Priority 2 funding. This funding shortfall is again glaringly apparent in the upcoming 2014 program year. Preliminary figures from USAC show that \$4.868 billion has been requested but the FCC has determined that only \$2.414 billion will be available. This will result in a program deficit of \$2.454 billion. We do not think that all the program reforms envisioned by the FCC will close this budget gap.

* * * *

Summary of Priority Issues

- Notice, ¶3: We strongly agree with the need for the Commission to reform the E-rate program from both the near-term and long-term perspectives. This is essential to help ensure that our schools and libraries can afford high-speed connectivity to and within their buildings.
- Notice, ¶8–23: To make a viable Priority 2 program we propose a combination of the 1 in 5 year proposal, the rotating eligibility proposal and we also recommend additional Priority 2 changes.
- Notice, ¶24–33: A critical issue is the *ongoing cost for sufficient broadband*. We make several recommendations below on how to address this including allowing schools and libraries to own their own fiber. (When amortized over several years, fiber ownership can result in far less expensive broadband costs vs. leasing.)
- Notice, ¶35: One of the best ways to encourage consortium purchasing and bulk buying is to allow consortia to use local or state purchasing regulations. This is especially important for state government procurements.
- Notice, ¶36: Schools and libraries should have technology plans but we oppose making this a program mandate.
- Notice, ¶40–54: Eligibility of basic phone service is still important, especially for our smaller schools and libraries. To address this need—but still save considerable funding—we propose an E-rate fund ceiling of \$2,000 per applicant for basic phone service.
- Notice, ¶57: We see no need for experimentation in bulk purchasing of E-rate eligible services and equipment. Such purchasing has been done for years and thus there is no need for any “experimentation.”
- Notice, ¶58: We think a limited demonstration project implementing a technical assistance program has merit.
- Notice, ¶62: If the Commission does not want to allow all applicants to use local or state procurement regulations, a demonstration project to least allow state governments to use their own state procurement regulations—in lieu of E-rate procurement regulations—will be very beneficial.

Details on Priority Issues

Our response below follows the narrative in the Public Notice and we reference specific paragraphs from the Notice as needed.

I. FOCUSED FUNDING FOR HIGH-CAPACITY BROADBAND (¶6–39)

Notice A: Broadband Deployment within Schools and Libraries

We very much agree with the need to (1) fundamentally reform how Priority 2 (P2) applications are funded, and (2) to focus P2 funding on wireless connectivity in our school and library buildings.

With the exception of the Milwaukee Public Schools and the Milwaukee Public Library, almost no other public schools or libraries in Wisconsin have received P2 funding in the past fifteen years. As part of our E-rate support we routinely tell applicants that if they are below a 70% discount, which most are, they should not bother applying for P2 funding.

To make a viable Priority 2 program we propose a combination of the 1 in 5 year proposal (Notice ¶14-16) and the rotating eligibility proposal (¶17-19). Our proposal seeks to provide the advantage of some timeframe certainty on when applicants will be eligible to receive funding (1 in 5) with the certainty that all applicants will receive P2 funding (rotating eligibility). This proposal is also based on the following conditions:

1. As shown in the table below, the current 20-90% discount matrix will be reduced for P2 applications.
2. The current Eligible Services List will be narrowed to focus P2 eligibility on services supporting wireless connectivity as referenced in paragraph 11 in the Notice.
3. There will be no P2 funding for ongoing maintenance.
4. The school P2 discount percentage will be based on the school *district-wide* discount average. (Our department, SECA and ALA all support this in their September 2013 NPRM comments.)

Our proposal reduces the discount matrix as follows³:

Percent of students eligible for the School Lunch Program.	Current urban discount	Current rural discount	Proposed new discount (same for urban and rural)
Less than 1%	20%	25%	20%
1% to 19%	40%	50%	30%
20% to 34%	50%	60%	40%
35% to 49%	60%	70%	50%
50% to 74%	80%	80%	60%
75% to 100%	90%	90%	70%

In this proposal all applicants in the following discount bands will submit P2 applications in the following years. It is assumed that Year 1 is July 1, 2015.

Year 1: Discount band 60-70%

Year 2: Discount band 40-50%

Year 3: Discount band 20-30%

- In year 1: If all of the applications at 60-70% cannot be funded, those at 70% will be funded first. The 60% will be rolled over into year 2 and be funded first in year 2.
- In year 2: If all of the applications at 40-50% cannot be funded, those at 50% will be funded first. The 40% will be rolled over into year 3 and be funded first in year 3.
- In year 3: If all of the applications at 20-30% cannot be funded, those at 30% will be funded first. The 20% will be rolled over into year 4 and be funded first in year 4.
- In year 4: If needed, all of the applications at 20% will be funded.⁴

Once all P2 applications are funded the cycle starts over again.

The condition where applications at 60%, 50%, etc., will be rolled over into the following years appears to introduce some complexity and uncertainty. But it is important to emphasize that this rollover *only becomes necessary if there is not sufficient funding*. Thus it is critical to ensure there is adequate P2 funding so that there is no need to apply this rollover provision. In addition to the four new P2 funding conditions listed above and the reduced discount, we think using 2013 and 2014 rollover and using a

³ For the current 2013 E-rate year 77% of all P2 funding requests are at a 90% discount and 20% are between an 80-89% discount. In other words, 97% of all P2 requests are at an 80% discount and above. Also, most waste/fraud/abuse in the program is concentrated on P2 applicants at the 90% discount level. Reducing the discount to a 70% maximum will likely help address this issue too.

⁴ Under the current discount matrix only 2.5% of the total funds requested are at less than a 50% discount. Thus it is very possible there will be no need for a fourth funding year. If so, the P2 funding cycle can start a year earlier.

significant amount of the \$2 billion E-rate reserve for Priority 2 will make it very unlikely the rollover provision will be needed. Also, we think after the Priority 2 demand is known for year 1 (i.e., likely April 2015) the FCC will have a good idea on whether this P2 funding model is sustainable. If it appears not to be so, the FCC can then modify it as needed (e.g., set a maximum cap per student or building) to ensure future sustainability.

We have concerns about an annual allocation of P2 funding to all applicants because many P2 services do not have the same type of annual recurring costs as many P1 services do (e.g., broadband). And any annual amount distributed to all applicants is likely to be relatively low. However, if the Commission wants to have annual allocations it will be essential to allow applicants to hold onto their allocation for at least three years in order to spend it on more substantive P2 upgrades.

Notice B: Broadband Deployment to Schools and Libraries (§24–33)

By the end of 2014 it is likely about 85% of our public schools and libraries⁵ will have fiber connectivity (§24). Thus, while a special program on infrastructure build out will still be beneficial in our state, we acknowledge that schools and libraries in other states will likely benefit more from such a program.

However, a critical issue for Wisconsin—and we are certain for other states too—is the *ongoing cost for sufficient broadband*. The

Commission itself recognized this in paragraph 27. The table on the right shows some recent broadband quotes received by several

Wisconsin schools. In all cases the schools already have fiber. We

are very concerned that the E-rate program will not be able to sustain discounts for thousands of schools and libraries at these levels. We agree with the Commission that unless ongoing costs for broadband connectivity are reduced substantially there will be little chance to meet the Commission’s broadband targets and little chance of ensuring adequate bandwidth at affordable costs. To help address this issue we reemphasize here several comments from our September 2014⁶ filing on the July 2014 E-rate NPRM.

Proposed Bandwidth	Monthly Cost (low and high quote)
500Mbps	\$3,108 - \$4,294
600Mbps	\$3,186 - \$5,153
700Mbps	\$2,532 - \$3,606
800Mbps	\$2,532 - \$6,869

- The Commission must take much more aggressive actions to ensure providers are offering the Lowest Corresponding Price (LCP) which is required by its own regulations (p. 4 WDPI comments).
- The current prohibition on E-rate supporting fiber ownership by schools and libraries means they may be paying far more annually to lease circuits vs. owning the circuits outright or sharing ownership with other community anchor institutions. (p. 5 WDPI comments).

⁵ We are currently involved with implementing a major fiber build-out to about 350 public libraries in the state. See the press release at http://news.dpi.wi.gov/files/eis/pdf/dpinr2014_18.pdf.

⁶ See Comments from the Wisconsin Department of Public Instruction, filed September 15, 2013 at <http://apps.fcc.gov/ecfs/document/view?id=7520943611>.

On the issue of E-rate support for some installation and special construction charges (§33), the cost of large projects (\$500,000) must currently be amortized over three years or more. This cost is based at the application level. We propose that for consortium applications that this amortization be calculated based on each consortium member's cost and not the total cost of the consortium's application.

Notice C: Encouraging Cost-Effective Purchasing (§34–37)

We think one of the best ways the Commission can encourage consortium purchasing and bulk buying is to allow consortia to use local or state purchasing regulations. This is especially important for state procurements that are often very lengthy and complex. Requiring states to also comply with E-rate procurement processes add considerably to the state's administrative burden and is a disincentive for states to pursue state purchasing and state master contracts.

We also think that giving regional education and library cooperatives the same procurement latitude now afforded to state procurements will be beneficial. For example, under current rules states have more flexibility on the timing of state procurements. Regional education and library cooperatives should have this same flexibility.

In paragraph 36 the Commission thinks that requiring technology plans will result in more cost-effective purchasing. We think such an assumption is very questionable. The department certainly thinks all schools and libraries should have technology plans but we *strongly oppose* making this a program mandate. With the past planning mandate USAC was deeply—and needlessly—involved in micromanaging the local technology planning process much to the frustration of our schools and libraries. As stated on page 15 in our September 2013 comments, “This adds another level of unneeded complexity that once more violates [E-rate program] goal #3.” Furthermore, we request that the FCC remove the technology plan requirement for Priority 2 services. Assuming the Commission initiates reforms ensuring that all schools and libraries will receive some P2 funds, requiring a USAC compliant technology plan will reduce the number of schools and libraries that apply for P2 funds.

On the issue of data collection (§37) we invite Commission staff to review page 4 of our September 2013 comments on this issue where we suggest the FCC conduct periodic surveys and work closely with statewide networks and state R&E networks. We also note that the FCC and USAC may want to work with third parties, like the EducationSuperhighway, on broadband data collection initiatives. Relying on data collected via the Form 471 will be of questionable value, especially since some Program Integrity Assurance (PIA) reviewers are telling applicants not to be concerned about what they enter in the broadband data area of the form 471.

Notice D: Streamlining the Administrative Process (§38–39)

As stated above and in our numerous comments to the FCC dating back to 2005⁷, we think allowing applicants to use local or state procurement processes will very much help reduce the current administrative burden where currently applicants must adhere to both local/state and E-rate procurement regulations. Also, as we stated on page 13 in our September 2013 comments: “We think an exemption for modest funding requests at the applicant or funding request level—linked with an expedited review process—is one of the best ways to streamline the program to the benefit of all parties.” In an example of extraordinary overkill in an application review process here is a recent email sent to our department’s E-rate support manager from a school undergoing review of their 2014 form 471 application for three fax lines.

Sent: Saturday, March 29, 2014 4:12PM
To: Bocher, Robert DPI
Subject: Re: Online Item 21 Issues

FYI

I filed my Item 21 attachments online and was contacted by PIA because they did not provide enough information. In one case, the FRN was for three fax lines. *I was asked to fax the entire telephone bill (37 pages).* [Emphasis added.]

Unfortunately these types of requests are all too common in the program on requests that are often less than \$2,000.

II. REDUCED SUPPORT FOR VOICE SERVICES (§40–54)

On the issue of discounts on voice service, we reference our position on page 7 in our September 2013 comments. To summarize: For many of our smaller libraries and schools E-rate eligibility of basic voice phone service (Plain Old Telephone Service, POTS) is still important. Therefore, we propose an E-rate funding ceiling of \$2,000 per applicant for basic phone service. Such a limit will help many smaller libraries and schools yet still save considerable funds. The Commission could implement this in 2015 and then review it after several years with the possibility of a total phase-out.

III. DEMONSTRATION PROJECTS (§55–62)

The Commission asks in paragraph 57 whether it should allow for experimentation in bulk purchasing of E-rate eligible services and equipment. Frankly, we see no need for such experimentation. Many regional education agencies and states already engage in bulk purchasing and group contracts and have

⁷ See page 3 in our December 2005 comments at <http://apps.fcc.gov/ecfs/document/view?id=6518190423>.
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been doing this for years—even before the E-rate program existed. Thus we simply do not see a need for any “experiments” in this area.

We do think that a limited demonstration project implementing a technical assistance program (§58) has merit. Certainly there is a need for such assistance, especially in our smaller schools and libraries. If the Commission moves forward with this, we strongly suggest that it cooperate closely with state education and library agencies to work on specific issues like the type of support to be funded, who can provide such support, the actual application process, etc. We are also very cognizant that a project of this nature will remove some E-rate funds from supporting traditional E-rate services. With this concern being noted, we think such a program should be funded at not more than \$10 million nationwide and we further request that the FCC review the other USF programs to see if they can be a funding source.

On page 6 above we note our support to allow consortia and state governments to use their own procurement regulations and bidding processes. But at a minimum, a demonstration project at least allowing state governments to use their own state procurement and bidding regulations— in lieu of the E-rate regulations—will be useful (§62).

In Summary

We again state our appreciation for the opportunity to comment on this fundamental reform of the E-rate program. We hope the Commission views our comments related to this Notice and our comments to the July 2013 NPRM as constructive. We look forward to a reformed E-rate program that will have a greatly simplified application process and a focus on addressing the 21st century broadband and related technology needs of our schools and libraries.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kurt J. Kiefer", with a stylized, flowing script.

Kurt J. Kiefer
Assistant State Superintendent
Division for Libraries and Technology
Wisconsin Department of Public Instruction